

## TITLE 9

## Chapter 9:15

PREVIOUS CHAPTER**MISCELLANEOUS OFFENCES ACT**

Acts 18/1964, 54/1971, 24/1972, 29/1975, 22/1976 (s. 87), 42/1976 (s. 6), 31/1978 (s. 23), 32/1979 (s. 3), 12/1986 (s. 4), 6/1992, 22/2001,1/2002; R.G.N.s 386/1964, 217/1970.

## ARRANGEMENT OF SECTIONS

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AN ACT to provide for the suppression and punishment of certain offences.

[Date of commencement: 8th May, 1964.]

1 Short title

This Act may be cited as the Miscellaneous Offences Act [Chapter 9:15].

2 Interpretation

In this Act—

“boat” includes any description of water craft used or capable of being used as a means of transportation on water except such craft as are exempted from this definition by the Minister by notice in a statutory instrument;

“constabulary member of the Police Force” means a member of the Police Constabulary established in terms of section 27 of the Police Act [Chapter 11:10];

[Inserted by Section 45 of Act 1 of 2002 with effect from the 22nd January, 2002.]

“inland waters” means any lake, dam, river or water which is declared by the Minister, by notice in a statutory instrument, to be inland waters for the purposes of this Act;

“night” means the period between sunset and sunrise;

“public place” includes any—

(a) road, street, thoroughfare, lane, footpath or bridge to which the public has access;

(b) building, part of a building, police station, police camp, stream, river, lake, dam, swimming pool, garden, park, race course, open space, open air theatre, drive-in theatre, aerodrome, sports ground, recreation ground, show ground, parade ground or other ground, whether enclosed or not, to which the public or any section of the public has access or is permitted to have access, whether on payment or otherwise and whether or not the right of admission thereto is reserved.

3 Certain conduct punishable

(1) In subsection (2)—

“appropriate authority” means—

(a) in the case of a public place situated within the area under the

jurisdiction of a municipal council or town council, such municipal council or town council, as the case may be;

(b) in the case of a public place situated within a local government area, the local board;

(c) in the case of a public place situated within the area under the jurisdiction of a rural district council, such rural district council;

(d) in the case of a public place situated within any area not mentioned in paragraph (a), (b) or (c), the person or body of persons having the control or the management of such area or, if there is no such person or body of persons, the district administrator.

(2) Any person who—

(a) appears in any public place without wearing such articles of clothing as decency, custom or the circumstances require; or

(b) wantonly or mischievously—

(i) rings any bell; or

(ii) makes any noise or disturbance or plays any musical instrument or wireless in a public place; or

(iii) knocks at doors; or

(iv) throws any missile or uses a catapult in a public place; or

(v) removes any property from any place; or

(vi) dislodges or disfigures any property; or

(vii) gives a false alarm of fire; or

(viii) does any act of a like nature; or

(c) wantonly provokes any animal; or

(d) without the permission of the appropriate authority, makes a fire or lets off fireworks manufactured for the purpose of amusement, in a public place; or

(e) rides or drives any animal upon any pavement; or

(f) throws or deposits any refuse or inflammable material in or upon a public place or in or upon any other place which has not been set aside for that purpose by the appropriate authority; or

(g) encumbers or obstructs the free passage along any street, road, thoroughfare, sidewalk or pavement; or

(h) allows any refuse, night-soil or other offensive material to be spilt or thrown into or on a public place; or

(i) cuts down, removes, destroys or injures any wood, tree or shrub without the permission of the owner or occupier of the land upon which such wood, tree or shrub is situated, or, in the case of any wood, tree or shrub situated in or upon a public place, the permission of the appropriate authority; or

(j) rides or drives any animal in or through a public place in a manner dangerous to the public; or

(k) discharges any firearm, air-pistol, air-rifle or air-gun in or upon a public place unless such firearm, air-pistol, air-rifle or air-gun is discharged in self-defence, for humane reasons or in circumstances in which such discharge is justified under any other law; or

(l) fires any explosive in or upon a public place without the permission of the appropriate authority; or

(m) drives or leaves any vehicle drawn by oxen in any public street or thoroughfare without a person at the head of such oxen or leaves any vehicle drawn by horses, donkeys or mules standing in any street or thoroughfare without a person at the head of such horses, donkeys or mules; or

(n) swears or makes use of obscene, abusive, insulting or threatening language in a public place; or

(o) shouts or screams in a public place to the annoyance of the public; or

(p) sings any obscene song within the hearing of the public, or writes or draws any indecent or obscene word, figure or representation in the view of public; or

(q) places any placard or other document, writing or painting on, or otherwise defaces any house, building, wall, fence, lamp-post, gate or elevator without the consent of the owner or occupier thereof or, subject to any other enactment, places any handbill, leaflet or other similar document on or in any motor vehicle without the consent of the owner or person in charge of such vehicle; or

(r) fails or neglects to take such steps as may be necessary to prevent the creation on property owned, leased or occupied by him, of a nuisance by offensive smell or otherwise; or

(s) flies a kite or a model aeroplane or plays any game in a public place to the annoyance of the public; or

(t) skates in or upon any street, road, thoroughfare, sidewalk or pavement; or

(u) commits any nuisance in any street or within view of any dwelling-house whereby public decency may be offended; or

(v) allows to be at large an unmuzzled ferocious dog; or

(w) begs or receives alms or induces or endeavours to induce the giving of alms in a public place without the consent of the appropriate authority;

shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[inserted by Act 22 of 2001, with effect from the 10th September, 2002]

#### 4 Penalty for loitering for purpose of prostitution

(1) Any person loitering or being in any public place for the purpose of prostitution or solicitation shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

(2) The court convicting a person of a contravention of subsection (1) may order that that person shall not, during such period not exceeding three years as the court may specify in the order, loiter in or on any road, street, thoroughfare, lane, footpath, sidewalk or pavement between the hours of six o'clock in the evening and six o'clock in the morning.

(3) Any person who contravenes or fails to comply with an order made in terms of subsection (2) shall be guilty of an offence and liable to the penalties referred to in subsection (1).

#### 5 Penalty for certain offences

(1) Any person who—

(a) slaughters or skins any animal or knowingly leaves any dead animal in or upon a public place; or

(b) wilfully enters into or upon any land, enclosed area or building, on or near to which there is conspicuously displayed a notice in large, legible letters forbidding entry; or

(c) whether or not there is a notice mentioned in paragraph (b), enters or has entered into or upon any land, enclosed area or building and fails or refuses to leave such land, enclosed area or building after being requested to do so by the owner, lawful occupier or person in charge thereof or any person authorized thereto by or on behalf of the owner, lawful occupier or person in charge thereof; or

(d) threatens to do injury to some other person or to the property of some other person; or

(e) plays or bets in any street, road, thoroughfare or other open and public place at or with any table or instrument of gaming or pretended game of chance and any person who is present at a gathering where such gambling is in progress;

shall be guilty of an offence:

Provided that nothing in paragraph (e) contained shall be construed as prohibiting the playing or betting at any entertainment if authority for the conduct of such gaming or

game of chance has been granted under the Lotteries and Gaming (Exemption) Act [Chapter 10:13].

(2) Subject to any other law, any person who sets, urges or permits any dog or other animal to attack or worry any person or animal or to pursue any vehicle, including a two-wheeled or three-wheeled vehicle, or permits the yapping, whining or barking of any dog, whether in a public place or otherwise, to disturb or interfere with the rest, peace or tranquillity of persons in the vicinity shall be guilty of an offence.

(3) Any person who is guilty of an offence under this section shall be liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

#### 6 Penalty for certain other offences

(1) Any person who—

(a) without lawful excuse, the proof of which excuse shall be on such person, has in his custody or possession any implement or article for use in housebreaking, theft, fraud or a contravention of section 57 of the Road Traffic Act [Chapter 13:11]; or

(b) is found by night, without lawful excuse, the proof whereof lies on him, in or upon any dwelling, premises or area; or

(c) enters any dwelling premises or area with intent to commit an offence;

or

(d) is found armed—

(i) with any dangerous or offensive weapon or instrument; or

(ii) with any thing which so closely resembles any dangerous or offensive weapon or instrument as to be likely to be mistaken therefor;

and who, being required thereto, does not give a valid and satisfactory reason for being so armed; or

(e) is found loitering in any public place under such circumstances as to afford reasonable grounds for believing that he has committed or is about to commit an offence; or

(f) resists, or incites, aids or encourages any person to resist, or hinders or disturbs any police officer, constabulary member of the Police Force or officer of a local authority in the execution of his duty; or

(g) fails or neglects to comply with any requirement of any police officer, constabulary member of the Police Force or officer of a local authority made in terms of any enactment;

shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[amended by Act 1 of 2002, with effect from the 22nd January, 2002]

(2) In a prosecution for an offence under paragraph (a) of subsection (1), if it is proved that the accused person had in his custody or possession an implement or article made or adapted for use in housebreaking, theft, fraud or a contravention of section 57 of the Road Traffic Act [Chapter 13:11], it shall be presumed unless the contrary is proved that he had it in his custody or possession for such use.

#### 7 Penalty for riotous or indecent conduct or threats, etc.

Any person who, in any public place—

(a) is guilty of riotous or indecent conduct; or

(b) uses any threatening, abusive or insulting words or behaves in a threatening, abusive or insulting manner with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned; or

(c) employs any means whatsoever which are likely materially to interfere with the ordinary comfort, convenience, peace or quiet of the public or which are likely adversely to affect the safety of the public or does any act which is likely to lead to a breach of the peace or to create a nuisance or obstruction;

shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment, and may, in addition, be required to find sureties to keep the peace for such period, not exceeding twelve months, as the court by which such person is convicted may determine.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

#### 8 Penalty for sale, etc. of certain types of knives

(1) In this section—

“specified knife” means a knife—

(a) which has a blade—

(i) which opens automatically by hand pressure applied to a button, spring or other device in or attached to the handle of the knife, sometimes known as a “flick knife”; or

(ii) which is released from the handle or sheath of the knife by the force of gravity or the application of centrifugal force and which, when released, is locked in place by means of a button, spring, lever or other device, sometimes known as a “gravity knife”; or

(iii) which is—

A. released from the handle or sheath of the knife manually; and

B. locked in the open position by means of a button, spring, lever or other device; and

C. released from the locked open position otherwise than solely by manual pressure on the blade;

other than a trimming knife the blade of which does not exceed thirty millimetres in length;

or

(b) which is declared in terms of subsection (2) to be a specified knife.

(2) Where he considers it necessary in the public interest to do so, the Minister may, by notice in a statutory instrument, declare any knife or class of knife to be a specified knife for the purposes of this section and may, in like manner, withdraw any such declaration.

(3) Any person who sells, hires or offers, displays or advertises for sale or hire, or lends or gives to any other person, or has in his possession, any specified knife shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

(4) The court convicting any person of a contravention of subsection (3) may order that any knife which formed the subject of the charge shall be forfeited to the State.

#### 9 Wearing and possession of camouflage uniforms

(1) In this section—

“authorized person” means—

(a) a member of the Defence Forces, the Police Force, the Prison Service or any other uniformed force of the State;

(b) a member of a military force of a foreign State who is—

(i) on attachment to any force referred to in paragraph (a) under an arrangement made between the Government and the Government of that foreign State; or

(ii) present in Zimbabwe, with the approval of the Government, in the course of his official duties;

“camouflage uniform” means any article of wearing apparel made of material carrying military-style camouflage markings.

(2) Subject to subsection (3), any person who—

(a) possesses any camouflage uniform shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment; or

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

(b) wears any camouflage uniform shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

(3) Subsection (2) shall not apply in relation to—

(a) an authorized person to the extent that he possesses or wears a camouflage uniform that has, on or after the 18th April, 1980, been supplied to him, or authorized for his use, by the force of which he is a member or to which he is attached; or

(b) the possession of a camouflage uniform as an exhibit in a museum administered by the State or in terms of the National Museums and Monuments Act [Chapter 25:11]; or

(c) any person or member of a class of persons exempted from this section by the Minister by notice in writing to that person or by notice in the Gazette, as the Minister thinks fit, to the extent that such person or member possesses or wears camouflage uniform in accordance with the terms and conditions of such exemption.

10 Use of boat and interference therewith without owner's consent

(1) Any person who—

(a) without lawful authority or reasonable cause, gets on to any boat lying on inland waters or in any port or harbour or on any land or interferes with or wilfully injures such boat or its accessories; or

(b) without the consent of the owner or person in lawful charge of the boat, uses or sails such boat on inland waters;

shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment:

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

Provided that nothing in this subsection shall be construed as prohibiting any police officer or any other person empowered thereto under any enactment from performing the duties conferred and imposed upon him by this Act or any other enactment.

(2) If, on the trial of any person on a charge of stealing a boat, the court is of the opinion that the accused was not guilty of stealing the boat but was guilty of an offence under subsection (1), the court may find him guilty of an offence under subsection (1), and thereupon he shall be liable to punishment accordingly.

11 Penalty for false statement to police officer or constabulary member of the Police Force

Any person who makes a statement to a police officer or a constabulary member of the Police Force containing allegations that an offence has been or may have been committed, knowing such allegations to be false or not knowing or believing them to be true, shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

12 Offences in connection with possession or acquisition of goods

(1) In subsection (3)—

“public sale” means a sale effected—

(a) at any public market; or

(b) by any shopkeeper during the hours that his shop may in terms of any enactment remain open for the transaction of business; or

(c) by a duly licensed auctioneer at a public auction; or

(d) in pursuance of an order of a competent court.

(2) Any person who—

(a) is found in possession of; or

(b) has been in possession of;

any goods of any description in circumstances which give rise, either at the time of the possession or at any time thereafter, to a reasonable suspicion that at the time of such possession the goods were stolen and who is unable at any time to give a satisfactory account of his possession shall be guilty of an offence.

(3) Any person who in any manner, otherwise than at a public sale, acquires or receives into his possession from any other person stolen goods of any description without having reasonable cause, proof of which shall be on such first-mentioned person, for believing at the time of such acquisition or receipt that the goods are the property of such other person or that such other person has been duly authorized by the owner thereof to deal with or to dispose of the goods shall be guilty of an offence and liable to the penalties which may be imposed on a conviction for receiving stolen property knowing it to have been stolen.

(4) Any person charged with a contravention of—

(a) section 4 of the Stock Theft Act [Chapter 9:18] or section 10 of the Copper Control Act [Chapter 14:06] may be found guilty of a contravention of subsection (2);

(b) section 5 of the Stock Theft Act [Chapter 9:18] or section 11 of the Copper Control Act [Chapter 14:06] may be found guilty of a contravention of subsection (3).

13 When police officer or constabulary member deemed to be acting in execution of duty

A police officer, or a constabulary member of the Police Force, who in good faith performs any act in accordance with or in the enforcement of any provision purporting to be an enactment of a competent legislative authority shall, notwithstanding any irregularity in the enactment of or defect in that provision or want of jurisdiction on the part of that legislative authority, be deemed to be acting in the execution of his duty.

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